IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 29944 of 2007(M)

PETITIONER:

M/S. A.M. KOYA ENGINEERING & CONTRACTORS CHANDRALOK CO-OPERATIVE HSC, CONDOMINIUM-7, SECTOR NO.10, KOPAR KHAIRANE, NAVI MUMBAI, HAVING ITS OFFICE AT 3/466, FIRDOUS, P.O. KARUVANTHURUTHY KOZHIKODE-673 643, KERALA, REP.BY ITS PARTNER, SHARAFUDDEEN,S/O.A.M.KOYA,AGED 31,FEROKE,CALICUT.

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)
SRI.K.M.FIROZ

RESPONDENTS:

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1. THE COMMERCIAL TAX INSPECTOR (OFFICER IN-CHARGE OF THE CHECK POST), COMMERCIAL TAX CHECK POST), COMMERCIAL TAX CHECK POST, BANGARA, MANJESHWAR.

2. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT), SALES TAX COMPLEX, III FLOOR, JAWAHAR NAGAR, KOZHIKODE-6.

BY GOVERNMENT PLEADER SRI.K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 29944/2007

Dated this the 10th day of October, 2007

JUDGMENT

The Truck Mounted Hydraulic Crane brought by the petitioner is said to be for his own purpose. It has been detained by the check post authorities as per Ext.P6. The reason stated for detention is that the petitioner was not a registered dealer and that Form 16 was not produced. According to the learned counsel for the petitioner, since the Truck Mounted Hydraulic Crane was brought for their own purpose, there is no requirement of compliance of the provision of the Kerala VAT Act. This submission is contradicted by the learned Government Pleader stating that this is a matter for the petitioner to satisfy the authorities.

2. Now as the proceedings have been initiated under the Act, enquiry has to be conducted and necessarily the matter has to be resolved. In view of the assertion of the petitioner that the equipment in question is for their own purpose, I do not find it necessary to further detain the equipment. Therefore, pending

adjudication in pursuant to Ext.P6, equipment in question shall be released to the petitioner on his furnishing a self bond without sureties.

Writ petition is disposed of as above.

ANTONY DOMINIC
Judge

mrcs